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MONTANA LEGISLATIVE HISTORY

Chapter 380 19 89

Bill H _____ S 382 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Public Health Welfare & Safety		
Hearing Date(s)	Mar 13	✓ C	Hearing Date(s)	Feb 15	✓ C
		C			C
		C			C
		C			C
Date Out	Mar 13	✓ C		Feb 16	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 382

INTRODUCED BY HAGER

IN THE SENATE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 16, 1989	SECOND READING, CONCURRED IN.
MARCH 17, 1989	THIRD READING, CONCURRED IN. AYES, 80; NOES, 15.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1989	RECEIVED FROM HOUSE.

Senate BILL NO. 382

INTRODUCED BY Hager

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE IMMUNITY FROM LIABILITY FOR MEDICAL ETHICS REVIEW COMMITTEE MEMBERS; TO PROHIBIT THE DISCOVERY AND ADMISSION OF MEDICAL ETHICS REVIEW COMMITTEE PROCEEDINGS AND RECORDS; AND AMENDING SECTION 37-2-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-2-201, MCA, is amended to read:

"**37-2-201. Nonliability ~~for peer review~~ -- evidential privilege -- application to nonprofit corporations.** (1) No member of a utilization review or medical ethics review committee of a hospital or long-term care facility or of a professional utilization committee, peer review committee, medical ethics review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) The proceedings and records of professional utilization, peer review, medical ethics review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge, but he cannot be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member thereof.

(3) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, medical ethics review, or professional standards review committee."

-End-

SB 380 INTRODUCED BY HAGER
EXCLUDE SOCIAL SECURITY BENEFITS AND TIER 1 RAILROAD RETIREMENT BENEFITS FROM STATE INCOME TAX

2/09	INTRODUCED		
2/09	REFERRED TO TAXATION		
2/10	FISCAL NOTE REQUESTED		
2/15	HEARING		
2/15	FISCAL NOTE RECEIVED		
2/16	FISCAL NOTE PRINTED		
	DIED IN COMMITTEE		

SB 381 INTRODUCED BY FARRELL, ET AL.
INCREASE ATTORNEYS' LICENSE TAX TO PAY SUPREME COURT/DISTRICT COURT JUDGES' SALARIES

2/09	INTRODUCED		
2/09	REFERRED TO STATE ADMINISTRATION		
2/10	FISCAL NOTE REQUESTED		
2/14	HEARING		
2/15	FISCAL NOTE RECEIVED		
2/16	FISCAL NOTE PRINTED		
2/16	COMMITTEE REPORT--BILL PASSED		
2/18	2ND READING PASSED AS AMENDED	49	1
2/21	3RD READING PASSED	43	7
	TRANSMITTED TO HOUSE		
2/22	REFERRED TO STATE ADMINISTRATION		
3/15	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED		
3/18	2ND READING CONCURRED	79	15
3/20	3RD READING CONCURRED	78	19
	RETURNED TO SENATE		
3/27	SIGNED BY PRESIDENT		
3/27	SIGNED BY SPEAKER		
3/28	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 379 EFFECTIVE DATE: 1/01/90		

SB 382 INTRODUCED BY HAGER
PROVIDE IMMUNITY FROM LIABILITY FOR MEDICAL ETHICS COMMITTEES

2/10	INTRODUCED		
2/10	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/15	HEARING		
2/16	COMMITTEE REPORT--BILL PASSED		
2/18	2ND READING PASSED	50	0
2/21	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/22	REFERRED TO JUDICIARY		
3/13	HEARING		
3/13	COMMITTEE REPORT--BILL CONCURRED		
3/16	2ND READING CONCURRED	59	25
3/17	3RD READING CONCURRED	80	15
	RETURNED TO SENATE		
3/22	SIGNED BY PRESIDENT		

3/23 SIGNED BY SPEAKER
3/27 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 380 EFFECTIVE DATE: 10/01/89

SB 383 INTRODUCED BY YELLOWTAIL, ET AL.
CHANGE STATE BIRD SYMBOL TO MAGPIE

2/10 INTRODUCED
2/10 REFERRED TO FISH & GAME
2/16 HEARING
2/17 COMMITTEE REPORT--BILL PASSED
2/20 2ND READING PASSED AS AMENDED 50 0
2/21 3RD READING FAILED 17 31

SB 384 INTRODUCED BY HARP
LIMIT AND REGULATE FEE OF ATTORNEY FOR WORKERS' COMPENSATION CLAIMANT
BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

2/10 INTRODUCED
2/10 REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/14 HEARING
2/17 COMMITTEE REPORT--BILL NOT PASSED AS AMENDED
2/17 ADVERSE COMMITTEE REPORT ADOPTED 28 20

SB 385 INTRODUCED BY HARP, ET AL.
GENERALLY REVISE REMEDIAL ACTION AND ENFORCEMENT FOR HAZARD WASTE RELEASES
BY REQUEST OF DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

2/10 INTRODUCED
2/10 REFERRED TO JUDICIARY
2/14 HEARING
2/16 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/18 2ND READING PASSED AS AMENDED 50 0
2/21 3RD READING PASSED 50 0

TRANSMITTED TO HOUSE
2/22 REFERRED TO NATURAL RESOURCES
3/08 HEARING
3/11 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/16 2ND READING CONCURRED AS AMENDED 87 0
3/20 3RD READING CONCURRED 94 3

RETURNED TO SENATE WITH AMENDMENTS
4/11 2ND READING AMENDMENTS NOT CONCURRED 49 0
4/12 FREE CONFERENCE COMMITTEE APPOINTED
4/14 FREE CONFERENCE COMMITTEE REPORT NO. 1
4/15 2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED 47 0
4/18 3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED 49 0

HOUSE
4/13 FREE CONFERENCE COMMITTEE APPOINTED
4/15 FREE CONFERENCE COMMITTEE REPORT NO. 1
4/17 2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED 98 1

involuntarily committed.

Senator Hager reminded the committee that Senator Keating had said the bill was a safety net, and used only when the regular rules did not take care of the matter.

Senator Rasmussen stated in this case he agrees with the Board of Visitors, which group was opposed to the bill.

Recommendation and Vote: Senator Rasmussen made a motion that SENATE BILL 272 DO NOT PASS. Senators in favor, 6; opposed, 0.

HEARING ON SENATE BILL 382

Presentation and Opening Statement by Sponsor: Senator Hager, Senate District #48, advised that he introduced this bill at the request of the Department. He stated it is an act to provide immunity from liability for Medical Ethics Review Committee members.

List of Testifying Proponents and What Group they Represent:

Jim Ahrens, Montana Hospital Association
Larry Akey, Montana Health Network

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jim Ahrens advised that one hospital in particular had asked his group to look at the confidentiality act that already is in place and there is some question as to whether or not discussions among medical ethics committees are subject to provisions of confidentiality. He stated that ethics committees undertake very serious discussions which have to be quite frank and straightforward. It is his group's feeling that those discussions should be protected and the bill is set up so that medical ethics review committees are included along with other peer review committees as the current statute provides. It is their hope that by including this the confidentiality will be maintained and the frankness of those discussions will continue. He urged passage of SB 382.

Larry Akey stated his group represents ten hospitals in eastern Montana. He said they support SB 382 for the reasons outlined by Mr. Ahrens, and asked that the committee pass this bill.

Questions From Committee Members:

Senator Norman asked if the peer review committee would have to notify the staff member who is being discussed what they determined, and further, if they decided his conduct was not satisfactory, would they have to give any explanation.

Steve Browning of the Montana Hospital Association advised that the peer review is covered largely by federal regulations, and the medical ethics committees are a more recent innovation. Notice requirements are not addressed in Montana's current statute on peer review. He stated there may be federal regulations that pertain to that. He informed that there is increasing interest in the peer review concept from an anti-trust standpoint.

Senator Himsl asked if the non-liability had reference to financial liability. Mr. Browning stated that the medical ethics and peer review committees are required to meet at certain times and under certain circumstances, and unless a person would have acted maliciously or intentionally injured someone, they would be immune from financial liability.

Senator Himsl asked if the medical ethics review committee was a state organization or an institutional organization. Mr. Browning advised that it was institutional.

Senator Rasmussen welcomed the students from Manhattan Christian School who were visiting.

Closing by Sponsor: Senator Hager had no closing comments.

DISPOSITION OF SENATE BILL 382

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Rasmussen made the motion that SENATE BILL 382 DO PASS. Senators in favor, 7; opposed 0.

ADJOURNMENT

Adjournment At: 1:30 p.m.

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 382 (first reading copy -- white), respectfully report that SB 382 do pass.

DO PASS

Signed: _____

Thomas O. Hager, Chairman

2/16/89
10:0

scrsb382.216

DATE 1/15/89

COMMITTEE ON Public Health

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jim Ahrens	Montana Hosp. Assn.	SB382	X	
Steve Browning	"	"	X	

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/15/89 Bill No. SB382 Time 1:30

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Motion by Tom Rasmussen to DO PASS.

Ten favor - 0- oppose

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especially when there are a lot of other people getting this information for other reasons while this reason is to help them.

Motion: Rep. Addy moved the committee reconsider its action and remove SB 105 from the Table.

The motion to reconsider SB 105 and take it off the Table CARRIED with 9 voting in favor of the motion and 8 voting in opposition (see attached Roll Call Vote).

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Rep. Addy moved SB 105 BE CONCURRED IN, motion seconded by Rep. Rice.

Rep. Brown stated he had a number of amendments which needed to be discussed and the committee would await Rep. Hannah's presence before it took final action on the bill. No further action was taken on SB 105.

HEARING ON SENATE BILL 382

Presentation and Opening Statement by Sponsor: Sen. Tom Hager, Senate District 48, stated SB 382 provides immunity from liability for medical ethics review committee members from the discovery and admission of medical ethics review committee proceedings and records. The utilization committee, the peer review committee, and the professional standards review committee already have this immunity. Part 2 applies to the proceedings and records of those committees. Part 3 also applies to any member, agent, or employee of a nonprofit corporation engaged in the function of peer review or medical ethics review.

Testifying Proponents and Who The Represent:

Steve Browning, Montana Hospital Association
Larry Akey, Montana Health Network

Proponent Testimony:

Steve Browning, representing the Montana Hospital Association, testified in favor of SB 382.

Larry Akey, appearing on behalf of the Montana Health Network, a group of ten mostly rural hospitals in the eastern part of the state, also supported SB 382. He stated that as medical technology becomes increasingly complex, questions of

medical ethics become increasingly common. This bill simply gives limitations on liability and protection of confidentiality to those health care professionals participating in medical ethics review commissions.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from Committee Members: Rep. Eudaily asked for an example of a medical ethics review committee and if there were separate ones for doctors, nurses, hospitals, etc. Sen. Hager responded this bill was from a hospital's attorneys in Billings.

Rep. Eudaily asked if the bill would apply to a committee that would be reviewing the license of a doctor to determine whether the doctor should continue to practice. Mr. Browning responded it would not deal with credential questions. Medical ethics committees typically have a very narrow purview, don't meet that often, usually deal with life and death questions, and are typically composed only of physicians.

Rep. Eudaily asked for an example of something they would review. Mr. Browning responded they review questions of life and death, for example, reviewing options for the hospital and the patient when a patient is brain dead.

Closing by Sponsor: Sen. Hager closed.

DISPOSITION OF SENATE BILL 382

Motion: Rep. Nelson moved SB 382 BE CONCURRED IN, motion seconded by Rep. Knapp.

Amendments, Discussion and Votes: None.

Recommendation and Vote: The motion SB 382 BE CONCURRED IN CARRIED unanimously.

STANDING COMMITTEE REPORT

March 13, 1989

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 382 (third reading copy -- blue) be concurred in .

Signed: _____
Dave Brown, Chairman

[REP. BOHARSKI WILL CARRY THIS BILL ON THE HOUSE FLOOR]

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. SENATE BILL 382 DATE MARCH 13, 1989

SPONSOR SEN. HAGER

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LARRY AKEY	MT HEALTH NETWORK	✓	
Steve Browning	Montana Hosp Assn	✓	
Tom Hager	SD 48	—	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.